

**ORIGINAL**

## UNITED STATES DISTRICT COURT

for the

Eastern District of Oklahoma

Case No.

**CW 19 - 206 - RAW**

(to be filled in by the Clerk's Office)

Avery Nelson Zeleny

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Carter County Detention Center  
Carter County Sheriff Chris Boyd  
Kyle Coffey  
Brad Danning

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

**FILED**

JUN 28 2019

PATRICK KEANEY  
Clerk, U.S. District Court

By

Deputy Clerk

**COMPLAINT FOR VIOLATION OF CIVIL RIGHTS**  
 (Prisoner Complaint)

**NOTICE**

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

ORIGINAL

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Avery Nelson Zeleny

All other names by which  
you have been known:

None

ID Number

678482

Current Institution

Carter County Detention Center

Address

100 S. Washington

Ardmore

OK

73401

City

State

Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Carter County Detention Center

Job or Title (*if known*)

Government Organization

Shield Number

Employer

Address

100 S. Washington

Ardmore

OK

73401

City

State

Zip Code

☐

Individual capacity

☒

Official capacity

Defendant No. 2

Name

Chris Bryant

Job or Title (*if known*)

Sheriff

Shield Number

N/A

Employer

Carter County Sheriff's Department

Address

100 S. Washington

Ardmore

OK

73401

City

State

Zip Code

☐

Individual capacity

☒

Official capacity

ORIGINAL

Defendant No. 3

Name  
Job or Title (if known)  
Shield Number  
Employer  
Address

Kyle Coffey  
Shift Sergeant, Carter County Detention Center  
N/A  
Carter County Sheriff's Office  
100 S. Washington  
Ardmore OK 73401  
City State Zip Code

☐ Individual capacity ☒ Official capacity

Defendant No. 4

Name  
Job or Title (if known)  
Shield Number  
Employer  
Address

Brad Dunning  
Jail Administrator  
N/A  
Carter County Sheriff's Office  
100 S. Washington  
Ardmore OK 73401  
City State Zip Code

☐ Individual capacity ☒ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

- ☐ Federal officials (a *Bivens* claim)  
☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Denied Me Grievance Papers  
Denied My Right To File Charges  
Deny Me Access To Law Library  
Deny My Fourteenth Amendment Not Allowing Me Access To Evidence In My Case

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?



Page 4 of 11

ORIGINAL

C. What date and approximate time did the events giving rise to your claim(s) occur?

(See Attachments A & B)

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?) I've been placed on a substantial balanced diet of being terrorized by staff consciously disregarding policy rules and rights of housed inmates / plaintiff. Defendant's physically engaged in inappropriate malfeasance and heinous volatile behavior. False charges were filed because staff officials knew plaintiff had no one to turn to.

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive. I never received medical due to the disregard for my safety after all the psychological threats and lies by the defendants. The abusive treatment treatment I've suffered and still suffer due to the bias and negligent discrimination. These acts are purposely committed with the sole intent on making me suffer. Knowingly these defendants design and practice these threats and malicious behavior inside this center.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

Because of the mental stress and prejudicial acclimations toward said person my request for actual damages (and/or punitive damages claimed for the acts stated in part IV and V of Complaint for Violations of Civil Rights. Wrongful actions by defendants created an abusive pattern that is stated in the facts of the case and still relating today. Defendants have blatantly abused their authority and caused mental and physical

OVER ON BACK SIDE →



damage. I, the plaintiff fear for my life every day as I am abused mentally through psychological motive pathologically injuring me by denying legally means to defend myself and by physically planting a paraphrenailia outside within fifty (50) feet of my person stating I had better claim it or they'd tase me. My grievances never make it past front desk nor have I been allowed to use their Law Library to further appeal the trumped-up charges.

Section 1983, 42 U.S.C. constitutional rights violated are my basic rights. My freedom of speech and right to seek guidance through a known right by using a law library to fight my charges are denied by said defendant's. Plaintiff's given no defense. "Recklessness" or "criminal negligence" is when a person takes substantial risks. These defendants show this by planting me in a shower and placing a baggy in the pod dayroom. The extent of space from the shower and baggy was over (80) feet. The Jail Administrator was patting me down at the time a baggy was found in the pod dayroom. "Malice" is a critical common law and statutory mens rea term. 101 4 Blackstone, Note 14, supra, at \*198-99 (in the context of common law murder, defining "malice aforethought" as "any evil design in general; the dictate of a wicked, depraved, and malignant heart").

From April 22, 2019, at 11:55 a.m. and also on April 29, 2019, at 9:22 a.m. plaintiff requested through telephone communication with Carter County Detention Center personnel/staff that he wanted to file assault charges and was denied. See section 2.02.3 (False Imprisonment) provides, in part, that it is an offense to "Knowingly restrain another unlawfully." Applying section 2.02(4), this means that the prosecution must prove the defendant knowingly restrained the victim, and he knew the restraint was unlawful. 141

141 American Law Institute Comment to § 2.02, at 245-46.

(NOTE: Victim being plaintiff.)

Plaintiff consented to be searched by Jail Admin. Mr. Dunning in the shower and was found with nothing. At the same time of search a baggy they say contained traces of drugs was found in the dayroom and plaintiff was told it was his.

**ORIGINAL****VII. Exhaustion of Administrative Remedies Administrative Procedures**

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

*100 S. Washington Str.  
Carter County Detention Center, Ardmore, OK 73401*

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☒ No

☐ Do not know

If yes, which claim(s)?

ORIGINAL

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☒ No

- E. If you did file a grievance:

1. Where did you file the grievance?

Carter County Detention Center (Inmate Request on April 22, 2019.)  
See (Attachment A)

2. What did you claim in your grievance?

Harassment, and Denying my request to file charges on officers for disregarding my constitutional rights.

3. What was the result, if any?

Reply was NO. by: KC on 4-22-19

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

Requested again on 4/29/19; then again on 05/02/19.



ORIGINAL

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

*Was Denied Grievance Paperwork*

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

*I informed the Jail Admin. Mr. Dunning (See Attachment A.)*

- G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

*The staff purposely, and knowingly lose my attempts using mail and contacting court system.*  
(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)**VIII. Previous Lawsuits**

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) N/A

Defendant(s) N/A

2. Court (if federal court, name the district; if state court, name the county and State)

N/A

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

N/A

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. \_\_\_\_\_

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

N/A

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment? No

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)☐ Yes☒ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s)

N/A

Defendant(s)

N/A

2. Court *(if federal court, name the district; if state court, name the county and State)*

N/A

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

N/A

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

N/A



**IX. Certification and Closing**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

**A. For Parties Without an Attorney**

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing:

June 17<sup>th</sup>, 2019

Signature of Plaintiff

Printed Name of Plaintiff

Prison Identification #

Prison Address

Avery N. Zeleny  
Avery N. Zeleny  
678482  
100 S. Washington  
Ardmore OK 73401  
City State Zip Code

**B. For Attorneys**

Date of signing: \_\_\_\_\_

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address

INMATE REQUEST FORM

ORIGINAL

INMATE NAME: Avery Zeleny DATE: 4.22.19 BLOCK/CELL: E.121

☐ SGT on Duty ☐ Floor Detention Deputy  
☐ COURT CLERK ☐ COMMISSARY/MAIL  
☒ JAIL ADMINISTRATOR ☐ MAINTENANCE  
☐ ASSISTANT JAIL ADMINISTRATOR ☐ BOOKING SUPERVISOR

REQUEST: Negative. Only people in the cell were me, one nurse, and you Brad. So stop lying and put my \$ BACK! I DID NOT REQUEST ANY X-RAY!

INMATE SIGNATURE: Avery Zeleny

REPLY: No,

DATE: 4-22-19 SIGNATURE: CC

PLEASE BE ADVISED ANY CORRESPONDENCE FOR THE JUDGES AND DISTRICT ATTORNEY OFFICE WILL NOT BE GIVEN TO THEM. YOU WILL HAVE TO GET IN CONTACT WITH YOUR LAWYER TO HAVE ANY CORRESPONDENCE FOR THOSE INDIVIDUALS. If this request is filled out to be a working trustee then it will not be returned if you are eligible.

Called tower at 11:35 AM on 4.22.19 requesting to file harassment charges on Kyle Coffey.  
 Requested to file Harassment charges again on 4.29.19 at 9:22 A.M. Still haven't received them

May 2nd 2019. Kyle Coffey again. Denying me the written form of  
denying is allow me to file charges.

At 11:05 A.M. on May 7th 2019 Kyle Coffey who I'd been  
trying and been denied to file Harassment charges on brought  
me the written statement paper I need to file charges when I  
asked to file charges for something else on camera. So why  
I get this paper to file charges on him? Please explain.

At 11:53 AM June 4th Attempted to refuse to feed  
and my cellmates. Called on a recorded line Sgt. Coffey  
and Officer Phillips, Both witnesses on my case. <sup>Called them</sup> my trays.

On June 3rd they conducted a cell search and I said  
I'd rather be searched on camera due to the last time I  
was searched off camera. They refused to allow me to be searched  
on camera.

On June 3rd when I returned from work and got the cell search  
I asked to be searched on camera and Sgt. Coffey  
made a comment said "Ha ha, What's wrong Mr. Zakary something  
happen last time, you were searched off camera? Ha ha ha." I  
a request about it to the Jail Administrator about it and could  
get a response.

June 6th 12:10 p.m. tried to shut my hand in the beanhole while  
I was giving him my trays. Called the tower to report the same  
constant harassment by Kyle Coffey

June 11th lunch tray pass wasn't present to feed the rest of the  
pod But, couldn't miss an opportunity to say something to me.  
Only came to feed my cell and said if we don't grab our trays  
fast enough he doesn't have to feed us. 2nd time he didn't  
to feed us. JA says let him know any new incidents But never respond  
or does anything about it. (Attempted to get copies of my civil lawsuit was denied)

At 10:10 PM on June 12th 2019 John Parsons called the tower and asked  
to get copies of his legal work and they said they would But when I asked



(ATTACHMENT B)

ORIGINAL



## WRITTEN STATEMENT



Case # \_\_\_\_\_ - \_\_\_\_\_

Page \_\_\_\_\_ of \_\_\_\_\_

Statement given by: Avery Zeleny D.O.B. 11/07/1993

Kyle Coffey is an alleged victim and witness on my pending cases. He makes it a point to come to my cell and either attempt to provide me or have unprofessional words with me every time he's on the pod. I've asked several times for grievance forms and for the necessary paperwork to file Harassment charges on him and have constantly been denied them and/or told I can't file charges unless my lawyer files them for me. I have requests and recorded phone calls dates and times of when I've asked and been told no. (Will provide dates + times of recordings at the bottom of this.) But, I'm not allowed and denied constantly to file charges on him, yet when I say I need to report my truck stolen I was almost immediately supplied with the paperwork to press charges by Kyle Coffey himself. On May 7<sup>th</sup>, 2019 at 11:05 AM. He provided me with the paperwork he'd been denying me the whole time when it wasn't to press charges on him. I'd like to proceed with filing Harassment charges and any charge if would be that he wouldn't provide me this paper because he was the one breaking the law and denying me my rights.

4-22-19 at 11:55 AM asked to file charges on recorded line 4-29-19 at 9:22 AM asked  
 Subject Signature: Avery Zeleny Date: May 7<sup>th</sup>, 2019 10:38 PM  
 Reporting Officer \_\_\_\_\_ ID \_\_\_\_\_ Date of Report \_\_\_\_\_  
 May 2<sup>nd</sup>, 2019 was denied grievance forms and paperwork to file charge again. All 3 on recorded line.